

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re REISSUE APPLICATION OF

Rodney M. SHIELDS

Appln. No.: 09/267,025

Filed: March 11, 1999

Confirmation No.: 6529

Group Art Unit: 1772

Examiner: William P. Watkins III

Title: IMAGE DISPLAY APPARATUS WITH HOLES FOR OPPOSITE SIDE VIEWING

* * * * *

May 5, 2003

PETITIONER'S SUPPLEMENTAL TESTIMONY
FOR PUBLIC USE PROCEEDING

Hon. Commissioner of Patents
Washington, D.C. 20231

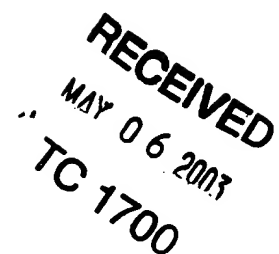
Sir:

Petitioner in the public use proceeding of the above-referenced reissue application hereby provides its supplemental testimony to the Applicant and the Examiner, as required by the schedule for public use proceeding dated January 13, 2003 (paper no. 25 of reissue application no. 09/267,025).

Petitioner intends to rely on the attached declarations of Linda M. Icard, Benjamin W. Icard, George Roland Hill, Abigail Parker, and Patrick Henrietta, and Jack Barufka (Exhibits 8-13), copies of which are attached and served herewith.

Pursuant to 37 CFR §1.672(b), Petitioner further encloses herewith a supplemental index of the names of its witnesses and exhibits.

Applicant's Objections to Admissibility of Petitioner's Exhibits Under 37 CFR § 1.672(b) For Public Use Proceedings and Objections to Admissibility of Petitioner's Testimony for Public Use Proceedings Under Under 37 CFR § 1.672(b) contain numerous "motions to strike." These sentence-fragment motions are illegitimate and premature. First, public use proceeding rules do not allow for such

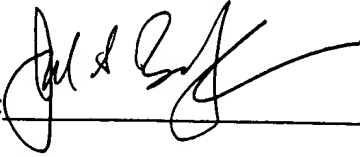


motions. *See* 37 CFR § 1.292; MPEP § 720-720.5. Second, Applicant's motions are premature because they fail to consider Petitioner's attached supplemental testimony and are made prior to Applicant's filing of its brief. *See* 37 CFR § 1.656(h).

Furthermore, even if allowed, Applicant's unreasoned motions to strike are not properly filed under the analogous interference practice's motions practice rules. *See* 37 CFR § 1.637(a). Applicant's unreasoned statements, which include only the words "move to strike," fall well short of Rule 637(a)'s requirement that the movant provide "a statement of the material facts in support of the motion, in numbered paragraphs, and a *full statement* of the reasons why the relief requested should be granted." 37 CFR § 1.637(a) (emphasis added); Applicant's Objections to Admissibility of Petitioner's Exhibits Under 37 CFR § 1.672(b) For Public Use Proceedings, pp. 2, 3, 4, 5, 6, and 7; Applicant's Objections to Admissibility of Petitioner's Testimony for Public Use Proceedings Under Under 37 CFR § 1.672(b), pp. 2, 3, 4, 5, 6, and 7. Applicant's failure to identify its grounds for striking these exhibits and testimony precludes Petitioner from responding in detail to any of Applicant's dozens of motions. Applicant's motions to strike should be denied because they are illegitimate, premature, unreasoned, and have not met Applicant's "burden of proof." 37 CFR § 1.637(a).

Respectfully submitted,

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By: 

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Attachments: Exhibits 8-13
Petitioner's Supplemental Index of Witnesses and Exhibits
Proof of Service Under 37 CFR §1.248

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May 5, 2003

**PETITIONER'S SUPPLEMENTAL INDEX OF WITNESSES AND
EXHIBITS UNDER 37 CFR §1.672(b) FOR PUBLIC USE PROCEEDING**

Hon. Commissioner of Patents
Washington, D.C. 20231

Sir:

Petitioner in the public use proceeding of the above-referenced reissue application hereby provides its Supplemental Index of witnesses and exhibits under 37 CFR §1.672(b).

1. Witness List

Witnesses	Testimony Begins at
Linda M. Icard.	Ex. 2, p. 1
Benjamin W. Icard.	Ex. 3, p. 1
George Roland Hill.	Ex. 4, p. 1
Abigail Parker.	Ex. 5, p. 1
Patrick Henrietta.	Ex. 6, p. 1
Jack S. Barufka.	Ex. 13, p. 1

2. Exhibit List

Exhibit	Description	First Identified
1	Offcut of "Old Joe" advertisement assembly	Ex. 2, p. 13
2	Affidavit of Linda M. Icard	Ex. 2, p. 1
2A	Documents relating to production of self-adhesive and static cling assemblies	Ex. 2, p. 8
2B	Records regarding sales of assemblies by Visual Technologies, Inc. and Clear Choice Marketing, Inc.	Ex. 2, p. 8
2C	Extracts from Visual Technologies, Inc.'s production calendar	Ex. 2, p. 3
2D	Offcut of "Old Joe" advertisement assembly	Ex. 2, p. 13
2E	October 1, 1993 letters from Clear Choice Marketing, Inc. to Coca-Cola Fountain, Georgia Lottery Commission, and Earl Polmer Brown Co.	Ex. 2, p. 17
2F	Photographs of the "Old Joe" advertisement assembly as applied to a window of a Circle K convenience store	Ex. 2, p. 15
2G	Article concerning Gatorade's use of ImagoImage advertisement assemblies	Ex. 2, p. 20
2H	Invoice of order to produce "Old Joe" perforated self-adhesive assembly for a full-scale advertising program	Ex. 2, p. 17
2I	U.S. Pat. No. 5,525,177	Ex. 2, p. 23
2J	U.S. Pat. No. 5,773,110	Ex. 2, p. 23

2K	July 26, 1993 ImagoImage, Inc. confidential non-disclosure agreement	Ex. 2, p. 3
2L	Facsimile from Greg Ross to Linda and Ben Icard concerning ImagoImage license	Ex. 2, p. 7
2M	Material similar to the perforated self-adhesive assembly used for the "Airport Cruiser Bus" project	Ex. 2, p. 9
2N	Articles concerning advertisements on buses	Ex. 2, p. 2
2P	Notes made by Linda Icard on 9/29/93 and 9/30/93	Ex. 2, p. 15
3	Affidavit of Benjamin W. Icard	Ex. 3, p. 1
3A	8/16/93 license offer to Linda and Ben Icard from Greg Ross; resulting license	Ex. 3, p. 4
3B	Addendum to the license in Exhibit 3A	Ex. 3, p. 5
3C	Documentation of actual sales of bus advertising materials to Las Vegas Hilton (Day Graphics), David Taylor, TANK Transit Authority, Phoenix Transit, Von Art, WTVD, Graphics International, and Tulsa Transit (Market Media), all of which were shipped before the end of September 1993	Ex. 3, p. 7
3D	ImagoImage, Inc. promotional material; letters from Clear Choice Marketing, Inc. to various customers	Ex. 3, p. 11
3E	ImagoImage, Inc. publicity material including newspaper reports of perforated self-adhesive assemblies on a	Ex. 3, p. 7

	"RoboBus"	
3F	November 29, 1993 article in Adweek; documentation of the sale of the advertisement illustrated in the Adweek article	Ex. 3, p. 7
3G	Article in the June 1994 P.O.P Times	Ex. 3, p. 15
3H	September 1993 photographs of the "Old Joe" advertisement assembly as applied to a window of a Circle K convenience store	Ex. 3, p. 11
3I	ImagoImage promotional materials and cover letter enclosing same	Ex. 3, p. 12
3J	October 4, 1993 page from Visual Technologies, Inc.'s production calendar	Ex. 3, p. 16
4	Affidavit of George Roland Hill	Ex. 4, p. 1
4A	Correspondence between Contravision North America, Inc. and ImagoImage, Inc. concerning U.S. Pat. No. 4,673,609	Ex. 4, p. 2
4B	Photographs of the "Old Joe" advertisement assembly	Ex. 4, p. 3
4C	ImagoImage publicity and licensing information; correspondence to and from Contravision North America, Inc. concerning ImagoImage, Inc.'s products	Ex. 3, p. 13; Ex. 4, p. 5
4D	Offcut of a Gatorade advertisement	Ex. 4, p. 6
4E	Photographs of the "Old Joe" advertisement assembly applied to a window at a Circle K convenience store in	Ex. 4, p. 4

	Charlotte, NC	
5	Declaration of Abigail Parker	Ex. 5, p. 1
5A	Photographs taken by Abigail Parker on October 7, 1993 of an ImageImage advertisement assembly on an LAX Airport Shuttle	Ex. 5, p. 1
5B	Offcut of a mounted Gatorade product advertising assembly	Ex. 3, p. 16
6	Affidavit of Patrick Henrietta	Ex. 6, p. 1
6A	Visual Technologies, Inc. Production Calendar extracts	Ex. 6, p. 2
6B	October 1, 1993 letter from Clear Choice Marketing, Inc. to Coca-Cola Fountain	Ex. 6, p. 5
7	Supplemental Declaration of George Roland Hill	Ex. 7, p. 1
7F	April 8, 1997 Clear Focus Imaging, Inc. "Issued Patents and Patent Applications	Ex. 7, p. 1
7G	Statutory Declaration in the matter of Clear Focus Patents and Patent Applications	Ex. 7, p. 1
7H	ImagoImage Company documents	Ex. 7, p. 1
7I	August 1993 ImagoImage, Inc. brochure and computer printout regarding this brochure	Ex. 7, p. 2
7J	Press cuttings concerning the RoboCop 3 project and a letter dated August 23, 2001 indicating that the RoboCop 3 advertisement assembly was printed by Supergraphics, Inc.	Ex. 7, p. 2

7K	July 21, 1993 license agreement between ImagoImage, Inc. and Supergraphics, Inc.	Ex. 7, p. 3
7L	September 16, 1993 license agreement between ImagoImage, Inc. and Clear Choice Marketing, Inc.	Ex. 7, p. 4
7M	September 27, 1993 license agreement between ImagoImage, Inc. and Edge Media Group, Inc.	Ex. 7, p. 4
7N	Extracts from a protest by Creative Minds Foundation signed by Gregory E. Ross, its President, in the Reissue of U.S. B1 4,673,609	Ex. 7, p. 6
7O	Clear Focus Imaging, Inc.'s Opposition to the Amendment of GB 2 165 292	Ex. 7, p. 6
7P	Declaration of Gregory E. Ross and Amendment dated January 23, 2002 in reissue application no. 09/267025	Ex. 7, p. 3
7Q	August 17, 1993 letter from Gregory E. Ross to Edge Marketing enclosing sample Exclusive License Agreement	Ex. 7, p. 5
8	Supplemental Declaration of Linda M. Icard	Ex. 8, p. 1
9	Supplemental Declaration of Benjamin W. Icard	Ex. 9, p. 1
10	Second Supplemental Declaration of George Roland Hill	Ex. 10, p. 1
11	Supplemental Declaration of Abigail Parker	Ex. 11, p. 1
12	Supplemental Declaration of Patrick Henrietta	Ex. 12, p. 1
13	Declaration of Jack S. Barufka	Ex. 13, p. 1

Respectfully submitted,

PILLSBURY WINTHROP LLP

By  _____

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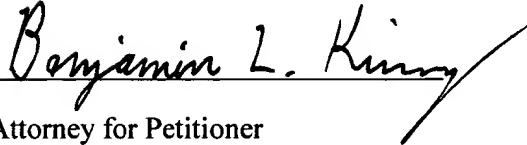


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PROOF OF SERVICE UNDER 37 CFR §1.248

I hereby certify that a true copy of the foregoing PETITIONER'S
SUPPLEMENTAL TESTIMONY FOR PUBLIC USE PROCEEDING and
attachments thereto were served by facsimile and by U.S. First Class Mail this 5th day
of May, 2003 on counsel for the reissue Applicant indicated below:

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